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FURTHER REPORT OF THE SECRETARY-GENERAL PURSUANT TO PARAGRAPH 5 OF SECURITY COUNCIL RESOLUTION 955 (1994)

I. INTRODUCTION

1. In paragraph 5 of resolution 955 (1994) of 8 November 1994, I was asked to report periodically to the Security Council on the implementation of the resolution establishing the International Tribunal for Rwanda. In my first report on 13 February 1995 (S/1995/134), I informed the Council of the steps envisaged for the practical implementation of the resolution and made my recommendation that Arusha, United Republic of Tanzania, should be selected as the seat of the Tribunal. The present report describes the manner in which implementation has evolved since my last report, provides up-dated information regarding the arrangements being made for the seat of the Tribunal and sets out the current situation as regards the financing of the Tribunal.

II. PRACTICAL IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 955 (1994)

2. In my report of 13 February 1995, I described a two-phase approach to the implementation of the resolution. In a first phase, an investigative/prosecutorial unit was to be established in Kigali under the immediate supervision of the Deputy Prosecutor, Mr. Honoré Rakotomanana (Madagascar), who officially assumed his functions on 1 March 1995. In the second phase, it was envisaged that the seat of the Tribunal would be established at the location to be determined by the Council.

3. The establishment of a Prosecutor's office in Kigali was based on the decision taken by the Council in paragraph 6 of resolution 955 that an office will be established and proceedings conducted in Rwanda where feasible and appropriate.

4. For a variety of reasons, however, the Office in Kigali has yet to become fully operational. The uncertain budgetary situation made it difficult to attract and recruit qualified personnel; the core staff of the investigation section of the Office expressed concerns about the safety of personnel and the

security of documents; and premises for both accommodation and office needs were either unavailable or inadequate. The establishment of the Office in the first 10 weeks has, therefore, been more difficult than anticipated and until very recently it had no permanent presence in Kigali.

5. In the meantime, the process of investigation into serious violations of international humanitarian law and acts of genocide has been actively directed by the Deputy Prosecutor from Kigali and The Hague. The investigation, which focuses on approximately 400 identified suspects, is being conducted both in and outside Rwanda, notably in other African countries, Europe and North America, where the principal planners of the crime of genocide are believed to be located. The nature of the investigation in Europe and North America necessitates a temporary presence of investigators in the Prosecutor's Office in The Hague.

6. The prospects for a fully operational Office of the Prosecutor in Kigali have improved somewhat in recent weeks. As my Special Representative informed the Council on 5 June 1995, the general situation in Kigali has improved; notwithstanding the limited commitment authority that is the current basis of the financing of the Tribunal, certain key personnel can now be recruited, with the approval of the Controller, for up to one year; a small number of contributed personnel have also been deployed to Kigali; premises for both accommodation and office needs have been located, and with the reduction in size of the United Nations Assistance Mission for Rwanda (UNAMIR), the space requirements of the Office can be met, even if the demand should grow beyond the number of posts currently foreseen. Notwithstanding the reduction of its force level, UNAMIR will continue to provide comprehensive support for the security of personnel and premises of the Prosecutor's Office, in accordance with resolutions 965 (1994) and 997 (1995). Barring any unforeseen difficulties of a practical or a security nature, it is expected that the Office in Kigali will now rapidly expand in size with a combination of recruited and contributed personnel.

7. Aware of the difficulties so far encountered in the early operation of the Prosecutor's Office in Kigali, I nevertheless wish to emphasize the considerable importance I attach to the presence of a fully operational Office in Kigali. Such a presence is not only mandated by the Security Council, but is also imperative for the socio-educational impact it would have on the people and Government of Rwanda. It has repeatedly been emphasized by the Government and the international community that the problem of impunity for crimes committed in Rwanda must not only be addressed but must also be seen to be addressed by the people most directly concerned.

8. The determination by the Council in resolution 977 (1995) of 22 February 1995 that, subject to the conclusion of appropriate arrangements, the seat of the International Tribunal will be at Arusha, opened the way to the election of the six trial judges by the General Assembly on 24 and 25 May 1995. Since the arrangements governing the seat of the Tribunal have yet to be completed, the first plenary session of the International Tribunal for Rwanda took place in The Hague between 26 and 30 June 1995. During this session the judges adopted the rules of procedure and evidence of the Tribunal and elected

Mr. Laïty Kama (Senegal) President and Mr. Yakov A. Ostrovsky (Russian Federation) Vice-President.

III. ARRANGEMENTS CONCERNING THE SEAT OF THE TRIBUNAL

9. Following the adoption of resolution 977 (1995) on the seat of the Tribunal, the Government of the United Republic of Tanzania confirmed its readiness to host the Tribunal in Arusha by a letter dated 10 April 1995 from the Permanent Representative of the United Republic of Tanzania addressed to the Legal Counsel.

10. A technical mission of the United Nations composed of representatives of the Buildings Management Service and the Purchase and Transportation Service of the United Nations Secretariat visited Arusha between 10 and 16 May 1995 to survey the premises of the Arusha International Conference Centre and the facilities available in Arusha to accommodate the Tribunal. The mission held discussions with the management of the Arusha International Conference Centre concerning arrangements that would be needed for obtaining suitable premises there. That was immediately followed, from 17 to 19 May 1995, by a mission composed of representatives of the Office of Legal Affairs of the Secretariat to discuss with representatives of the Government a draft headquarters agreement and to discuss a draft lease agreement with representatives of the Arusha International Conference Centre. The Acting Chief of Administration of the Tribunal participated in both missions. The discussions of the draft agreements took place, ad referendum, on the basis of draft texts that had previously been prepared by the Office of Legal Affairs and made available to the Government. A record of discussion on both instruments was prepared at the close of the meetings.

11. While a number of issues remain to be resolved on both agreements, these are not thought to be insurmountable. For example, the outstanding issues in the draft headquarters agreement include the relationship of regulations made by and operative on the premises of the Tribunal with the laws and regulations of the United Republic of Tanzania; the exemptions of the Tribunal from certain indirect taxes; the status, privileges and immunities of locally recruited staff of the Tribunal; and the granting of visas free of charge and the use of United Nations travel documents. With respect to the draft lease agreement, all terms and conditions are subject to review and approval by the appropriate United Nations units, and issues such as the amount of rent, identification of the space and the timing of the availability of the premises to the Tribunal will have to be resolved. Other prerequisites for entering into a lease agreement include provision of the necessary funding, as well as completion of procedures and issuance of approvals required under the United Nations Financial Regulations and Rules. It is hoped that it will be possible in the near future to finalize both a headquarters agreement and a lease agreement, subject to the necessary approvals by the respective organs of the Government and the United Nations.

12. It should also be noted that, in addition to the lease, arrangements, including contracting, will have to be made for the renovation, construction and repair work in the Arusha International Conference Centre in order to provide

the necessary facilities for the Tribunal. A report on these aspects from an architectural/planning consultant engaged by the United Nations has been received and is now being examined. The conclusion of a lease agreement and the contractual commitments for the renovation, construction and repair work are, of course, linked to the budget of the Tribunal, which is now in the final stages of preparation.

IV. FINANCING OF THE TRIBUNAL

13. The International Tribunal for Rwanda has thus far been operating on a combination of a commitment authority granted by the Advisory Committee on Administrative and Budgetary Questions of up to $2.9 million and voluntary contributions in cash or kind provided by a small number of Governments. The total pledges and contributions made to the Trust Fund for the International Tribunal for Rwanda to date are slightly in excess of $1 million. In addition, at a specially convened meeting of the Rwanda Operational Support Group in Kigali on 19 May 1995, pledges in cash and in kind in the amount of some $6 to 7 million were made. A budgetary submission for the calendar year 1995 will be presented to the General Assembly during its current session. The approval by the General Assembly of a budget for the Tribunal will greatly facilitate the operational development of the Tribunal, particularly the Prosecutor's Office, permit recruitment of personnel to take place on an accelerated basis and the necessary lease and other contractual commitments to be entered into and enable the planning of a work programme for investigation, the preparation of indictments and the holding of trials.